



Department of Justice

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Prison Sentence for Cosco Busan pilot

Pilot Sentenced to Serve 10 Months in Federal Prison

WASHINGTON— John Joseph Cota, the pilot who caused the *Cosco Busan*, a 900-foot long container ship, to collide with the San Francisco Bay Bridge and discharge approximately 53,000 gallons of oil into San Francisco Bay, was today sentenced to serve 10 months in federal prison by U.S. District Court Judge Susan Illston for the Northern District of California, the Justice Department announced.

Cota, who was a licensed bar pilot at the time of the collision, gave commands that caused the 65,131-ton Hong Kong-registered ship to collide with the bridge on Nov. 7, 2007.

Cota was sentenced according to an agreement in which he pleaded guilty to negligently causing discharge of a harmful quantity of oil in violation of the Clean Water Act (CWA), as amended by the Oil Spill Act of 1990 – a law passed in the wake of the 1989 Exxon Valdez disaster – and to violating the Migratory Bird Treaty Act, by causing the death of protected species of migratory birds.

In papers filed in court, prosecutors told the judge that Captain Cota should receive a sentence of incarceration because he was "guilty of far more than a mere slip-up or an otherwise innocuous mistake that yielded unforeseeably grave damage. Rather, he made a series of intentional and negligent acts and omissions, both before and leading up to the incident that produced a disaster that, as widespread as it was, could have had even worse consequences."

"Captain Cota abandoned ship by not following required safety procedures which then resulted in an environmental disaster" said John C. Cruden, Acting Assistant Attorney for the Justice Department's Environment and Natural Resources Division.

"The court's sentence of John Cota should serve as a deterrent to shipping companies and mariners who think violating the environmental laws that protect our nation's waterways will go undetected or unpunished," said Joseph P. Russoniello, U.S. Attorney for the Northern District of California. "They will be vigorously prosecuted."

Prosecutors provided the court with a list of Cota's errors that included the following:

- Captain Cota left in extreme fog that was so thick that the bow of the vessel was not visible from the bridge. Captain Cota made the decision to leave in the fog while the pilots of six other large commercial vessels decided not to depart in the heavy fog which was less than 0.5 nautical miles.
- Having made the decision to leave port in impenetrable fog, Captain Cota took no action to assure the fortification of the bridge or bow watch or review the passage plan with the master and crew of the *Cosco Busan*. In particular, Cota failed to have a master-pilot exchange to review the transit plan.
- Captain Cota has subsequently claimed that he found both radar unreliable, but he did not notify the master or the Coast Guard that a required piece of equipment needed to safely navigate the ship had failed. Meanwhile, the captured images of the radar retained on the ship's computer show that the radar was fully operational.
- The tape recorded conversations from the ship's bridge show that Captain Cota was confused regarding the operation of the electronic chart system upon which he chose to rely including the meaning of 2 red triangles that marked buoys marking the tower of the bridge that he eventually hit.
- At no time during the voyage after leaving the berth at 8:07 a.m. and prior to 8:30 a.m. did Captain Cota, or any of the ship's crew, consult the ship's official paper navigational chart or take a single positional fix. Captain Cota did not ask any crew member to take any fixes or verify the ship's position despite the lack of

visibility. After the incident, Cota told the Coast Guard he did not request fixes because it is like "driving your car out of a driveway."

Prosecutors also filed papers showing that Captain Cota had failed to disclose his medical conditions and prescription drug use on required annual forms submitted to the Coast Guard.

The discharge of heavy fuel oil from the *Cosco Busan* fouled 26 miles of shoreline, killed more than 2,400 birds of about 50 species, temporarily closed a fishery on the bay, and delayed the start of the crab-fishing season. Monetary damages to the bridge, ship and private parties were in the tens of millions of dollars. Clean-up costs have been estimated to exceed \$70 million. The birds killed include Brown Pelicans, Marbled Murrelets and Western Grebes. The Brown Pelican is a federally endangered species and the Marbled Murrelet is a federally threatened species and an endangered species under California law.

Cota was licensed by the Coast Guard and California as a Bar Pilot, according to the indictment. He was a member of the San Francisco Bar Pilots and had been employed in the San Francisco Bay since 1981. In California, large ocean-going vessels are required to be piloted when entering or leaving port.

The grand jury indictment also charges Fleet Management Limited (Hong Kong), a ship management firm, with the same alleged offenses as well as false statements and obstruction of justice charges. Trial in that case is set for Sept. 14, 2009. An indictment is merely an accusation. All defendants are presumed innocent until proven guilty at trial beyond a reasonable doubt.

The investigation has been conducted by the Coast Guard Investigative Service, the EPA Criminal Investigation Division, the Federal Bureau of Investigation, the U.S. Fish and Wildlife Service and the California Department of Fish and Game, Office of Spill Prevention and Response.

The case is being prosecuted by Assistant U.S. Attorneys Stacey Geis and Jonathan Schmidt and Special Assistant U.S. Attorney Christopher Tribolet of the U.S. Attorney's Office for the Northern District of California, and Richard A. Udell, Senior Trial Attorney with the Environmental Crimes Section of the U.S. Department of Justice.

Under the Crime Victims' Rights Act, crime victims are afforded certain statutory rights including the opportunity to attend all public hearings and provide input to the prosecution. Those adversely impacted by the oil spill are encouraged to visit <http://www.usdoj.gov/usao/can/community/Notifications> to learn more about the case and the Crime Victims' Rights Act.

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